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<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number (Optional)  2000P24056WOUS			
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]  on _____  Signature _____  Typed or printed name _____	Application Number  10/748,584	Filed  2003-12-30			
	First Named Inventor  Ralf Neuhaus				
	Art Unit  2618	Examiner  Angelica Perez			
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p> <p>I am the</p> <table style="width: 100%; border: none;"><tr><td style="width: 50%; vertical-align: top;"><p><input type="checkbox"/> applicant/inventor.</p><p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p><p><input type="checkbox"/> attorney or agent of record. Registration number _____</p><p><input checked="" type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 <u>55179</u></p></td><td style="width: 50%; vertical-align: top; border: none;"><p><u>/Ralph G. Fischer/</u> Signature</p><p><u>Ralph G. Fischer</u> Typed or printed name</p><p><u>412-392-2121</u> Telephone number</p><p><u>2010-08-03</u> Date</p></td></tr></table> <p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>				<p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input type="checkbox"/> attorney or agent of record. Registration number _____</p> <p><input checked="" type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 <u>55179</u></p>	<p><u>/Ralph G. Fischer/</u> Signature</p> <p><u>Ralph G. Fischer</u> Typed or printed name</p> <p><u>412-392-2121</u> Telephone number</p> <p><u>2010-08-03</u> Date</p>
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<p><input type="checkbox"/> *Total of _____ forms are submitted.</p>					

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**I. RESPONSE TO THE REJECTION OF THE PREVIOUSLY PRESENTED CLAIMS**

The Examiner rejected pending claims 25-32 and 34-39 under 35 U.S.C. § 103 in view of U.S. Patent Nos. 5,805,677, to Ferry et al. and 7,058,356 to Slotznick. (Office Action of April 28, 2010 (hereafter "Office Action") at 3-8). Claim 33 and 40 were rejected as obvious in view of Ferry et al., Slotznick and U.S. Patent Nos. 5,948,080 to Baker. (Office Action, at 8).

**A. The Cited Art Dos Not Teach Every Element Of The Pending Claims**

Claim 25 requires a system to include at least one communication device. The at least one communication device is configured to automatically search for an active entertainment terminal when an administrative mode is selected such that the at least one communication device is connectable to the active entertainment terminal so a selection menu is displayable on the display of the active entertainment terminal after the active entertainment terminal is detected. Claims 26-39 depend directly or indirectly from claim 25 and therefore also contain these limitations.

**1. None Of The Cited Art Teach Or Suggest A Communication Device Searching For An Active Entertainment Terminal**

The Examiner admits that Ferry et al. do not teach or suggest any communication device that is configured to search for an active entertainment terminal when an administrative mode of that device is selected so that the device is connectable to an active entertainment terminal so that a selection menu is displayable on the display of the active terminal after that terminal is detected. (Office Action, at 4). However, the Examiner contends that Slotznick teaches or suggests such features at Column 4, lines 30-34 & 55-63 and Column 10, lines 47-53. (Office Action, at 4).

To the contrary, Slotznick does not teach or suggest any communication device that is configured to search for an active entertainment terminal when an administrative mode of that device is selected so that the device is connectable to an active entertainment terminal so that a selection menu is displayable on the display of the active terminal after that terminal is detected. Slotznick requires a phone or TV phone to be directly connected to a TV. There is no searching for an active entertainment terminal conducted by the phones disclosed by Slotznick and Ferry et al. For instance, Slotznick teaches that a phone should have its base station attached to a TV or connected to a TV or that a phone should be directly wired to a TV. (Slotznick, at Col. 3, lines 10-49). As another example, Slotznick teaches that a set-top box actively transmits phone number information to a phone so that the phone may call that phone number. (*Id.* at Col. 3, lines 34-43).

Moreover, neither Slotznick nor Ferry et al. teach or suggest any display of any selection menu. For example, Column 4, lines 30-34 and lines 55-63 of Slotznick disclose a phone that is connectable to a TV so that a website is viewable on the TV or so that data and pictures downloaded on that TV phone are displayable on the TV. As another example, Column 10, lines 47-53 of Slotznick disclose a telephone that may dial a telephone number of a remote entity, such as a TV station that offers products for sales. (Column 10, lines 27-62). The dialing of a call provides no selection menu nor displays any selection menu on a TV or other entertainment terminal. Further, Ferry et al. do not teach or suggest any display of any selection menu on a TV or other entertainment terminal. Ferry et al. only disclose a display of telephone number or caller information when an incoming call is detected. (Abstract, Col. 1, lines 15-28). There is no teaching or suggestion of any selection menu display on any entertainment terminal in the cited art.

Claims 25-39 are allowable for at least the above discussed reasons. The cited combination of art does not teach or suggest all the limitations of these claims.

## **2. Claim 28 Is Independently Patentable**

Claim 28 depends from claim 25 and requires one or more communication devices to be configured to switch to the administration mode upon receiving an incoming call to set up a connection to the active entertainment terminal. The Examiner contends that Ferry et al. teaches or suggests the limitations of claim 28 at Column 1, lines 14-24, Column 5, lines 8-29, Column 10, lines 20-30. (Office Action, at 6).

To the contrary, there is no teaching or suggestion of any switching to any administrative mode upon receiving an incoming call in Ferry et al. As the Examiner admits, there is no mode disclosed by Ferry et al. that requires any searching for any entertainment terminal. Further, there is no switching to any such mode when an incoming call is received by a communication device taught by Ferry et al. In fact, Ferry et al. teach that an apparatus should include a detecting device for detecting an incoming call, a decoder device for decoding information relating to that call, and a transfer device for sending caller information to a TV or video device. (Abstract). There is no switching to any mode upon receiving an incoming call. The device disclosed by Ferry et al. is always in one mode and is always configured to display data on the video device. (Abstract, Col. 5, lines 10-29, Col. 10, lines 20-40).

None of the cited art teaches or suggests the limitations of claim 28. Claim 28 is independently patentable over the cited art.

## **3. Claim 39 Is Independently Patentable**

Claim 39 depends from claim 25 and requires one or more communication devices to be configured to switch from a first mode to the administrative mode. The first mode and the

administrative mode both require the one or more communication devices to be powered for operation such that the administrative mode and the first mode are not operational when the one or more communication devices are deactivated.

As noted above, none of the cited art teaches any administrative mode for automatically searching for an active entertainment terminal nor any display of a selection menu. Further, none of the cited art teaches or suggests any switching from a first mode to an administrative mode where both modes require power to be operational.

The Examiner contends that Ferry et al. discloses such modes and such switching at Column 1, lines 14-24, Column 5, lines 8-29 and Column 10, lines 20-40. (Office Action, at 8). The Examiner states that "when the call is received the 'administrative mode' takes over, 'switches', so that the user can manage the call." *Id.* To the contrary, no such switching or any "take over" of any call is taught by Ferry et al. Ferry et al. teaches a mechanism that displays incoming call information when an incoming call is detected. There is no teaching or suggestion of any taking over of any call or any managing of any call. The mechanism taught by Ferry et al. simply acts to alert a viewer of a TV of the fact that a call is being received. There is no taking over of any call, nor is there any switching into different modes. In fact, both Ferry et al. and Slotznick discloses devices that are only operational in one mode when they are powered.

None of the cited art teaches or suggests the limitations of claim 39. Claim 39 is independently patentable over the cited art.

#### **4. None Of The Cited Art Teach Or Suggest The System Of Claim 40**

Claim 40 requires a system to include at least one communication device configured to switch from a first mode to an administrative mode. Both the first mode and the administrative mode require the communication device to be powered for operation. The at least one

communication device is configured to automatically search for an active entertainment terminal when the administrative mode is selected such that a selection menu is displayable on the display of the active entertainment terminal after the active entertainment terminal is detected. The display of the active entertainment terminal is also configured to receive input comprised of at least one of text and call administration data that is transmittable via touching the display. The display is configured to transmit the input received by the display to the at least one communication device to effect administration of a call.

As discussed above with reference to claims 25-39, the cited art does not disclose or suggest a communication device that searches for an active entertainment terminal or a communication device that switches from a first mode to an administrative mode. Moreover, the cited art does not teach or suggest the display of the active entertainment terminal to be configured to receive input comprised of at least one of text and call administration data as required by claim 40. The cited art also does not teach or suggest such a display being configured to transmit the input received by the display to the at least one communication device to effect administration of a call as required by claim 40. Further, the Examiner has failed to meet her burden in providing any argument or rationale as to why the cited art would render claim 40 obvious.

**B. EP Patent No. 1 402 723 B1 Shows The Pending Claims Are Allowable**

The present application corresponds to granted European Patent No. EP 1 402 723 B1. For the Examiner's reference, a copy of this patent was previously provided to the Examiner with the Amendment dated October 2, 2009. The European Patent Office has found the invention disclosed in the present application to warrant patent protection. This is an indicia of the non-obvious nature of the pending claims and shows that the claims should be allowed.